

(1) Inspected the fruit or vegetable and released it;

(2) Ordered treatment at the port of first arrival and, after treatment, released it;

(3) Authorized movement to another location for treatment, further inspection, or destruction;

(4) Ordered the fruit or vegetable to be re-exported; or

(5) Waived the inspection.

(e) *Notice to owner of actions ordered by inspector.* If an inspector orders any disinfection, cleaning, treatment, re-exportation, or other action with regard to imported fruits or vegetables, the inspector shall file an emergency action notification (PPQ Form 523) with the owner of the fruits or vegetables or an agent of the owner. The owner must, within the time specified in the PPQ Form 523, destroy the fruits and vegetables, ship them to a point outside the United States, move them to an authorized site, and/or apply treatments or other safeguards to the fruits and vegetables as prescribed by an inspector to prevent the introduction of plant pests into the United States.

(f) *Costs and charges.* The Animal and Plant Health Inspection Service (APHIS), U.S. Department of Agriculture will be responsible only for the costs of providing the services of an inspector during regularly assigned hours of duty and at the usual places of duty.<sup>14</sup> The owner of imported fruits or vegetables is responsible for all additional costs of inspection, treatment, movement, storage, or destruction ordered by an inspector under this subpart, including any labor, chemicals, packing materials, or other supplies required. APHIS will not be responsible for any costs or charges, other than those identified in this section.

[60 FR 62320, Dec. 6, 1995, as amended at 68 FR 37922, June 25, 2003]

#### **§319.56-7 Inspection of baggage and cargo on the dock.**

Inspectors of the U.S. Department of Agriculture are authorized to cooperate with the customs inspectors in the

examination of all baggage or other personal belongings of passengers or members of crews of vessels or other carriers whenever such examination is deemed necessary for the purpose of enforcing the provisions of §319.56 with respect to the entry of any prohibited or restricted fruits or vegetables or plants or portions of plants which may be contained in the baggage or other belongings of such persons.

#### **§319.56-8 Territorial applicability.**

The regulations in this subpart shall apply with respect to importations into the continental United States, Guam, Hawaii, Puerto Rico, and the Virgin Islands of the United States.

### **Subpart—Wheat Diseases**

SOURCE: At 70 FR 8231, Feb. 18, 2005, unless otherwise noted.

#### **§319.59-1 Definitions.**

*Administrator.* The Administrator of the Animal and Plant Health Inspection Service, United States Department of Agriculture, or any employee of the United States Department of Agriculture delegated to act in his or her stead.

*Animal and Plant Health Inspection Service (APHIS).* The Animal and Plant Health Inspection Service of the U.S. Department of Agriculture.

*From.* An article is considered to be “from” any country or locality in which it was grown.

*Grain.* Wheat (*Triticum aestivum*), durum wheat (*Triticum durum*), and triticale (*Triticum aestivum* X *Secale cereale*) used for consumption or processing.

*Hay.* Host crops cut and dried for feeding to livestock. Hay cut after reaching the dough stage may contain mature kernels of the host crop.

*Host crops.* Plants or plant parts, including grain, seed, or hay, of wheat (*Triticum aestivum*), durum wheat (*Triticum durum*), and triticale (*Triticum aestivum* X *Secale cereale*).

*Inspector.* Any individual authorized by the Administrator of APHIS or the Commissioner of the Bureau of Customs and Border Protection, Department of Homeland Security, to enforce the regulations in this subpart.

<sup>14</sup>Provisions relating to costs for other services of an inspector are contained in 7 CFR part 354.

**Karnal bunt.** A plant disease caused by the fungus *Tilletia indica* (Mitra) Mundkur.

**Plant.** Any plant (including any plant part) for or capable of propagation, including a tree, a tissue culture, a plantlet culture, pollen, a shrub, a vine, a cutting, a graft, a scion, a bud, a bulb, a root, and a seed.

**Seed.** Wheat (*Triticum aestivum*), durum wheat (*Triticum durum*), and triticale (*Triticum aestivum* × *Secale cereale*) used for propagation.

**Spp. (species).** All species, clones, cultivars, strains, varieties, and hybrids, of a genus.

**Straw.** The vegetative material left after the harvest of host crops. Straw is generally used as animal feed or bedding, as mulch, or for erosion control.

**United States.** The States, the Commonwealth of the Northern Mariana Islands, the Commonwealth of Puerto Rico, the District of Columbia, Guam, the Virgin Islands of the United States, or any other territory or possession of the United States.

[70 FR 8231, Feb. 18, 2005, as amended at 70 FR 71212, Nov. 28, 2005]

**§319.59-2 General import prohibitions; exceptions.**

(a) Except as provided in paragraph (b) of this section, importation of *Triticum* spp. plants into the United States from any country except Canada is prohibited. This prohibition does not include seed.

(b) *Triticum* spp. plants, articles listed in §319.59-3 as prohibited importation pending risk evaluation, and articles regulated for Karnal bunt in §319.59-4(a) may be imported by the U.S. Department of Agriculture for experimental or scientific purposes if:

(1) Imported at the Plant Germplasm Quarantine Center, Building 320, Beltsville Agricultural Center East, Beltsville, MD 20705, or at any port of entry with an asterisk listed in §319.37-14(b) of this part;

(2) Imported pursuant to a departmental permit issued for such article and kept on file at the Plant Germplasm Quarantine Center;

(3) Imported under conditions of treatment, processing, growing, shipment, or disposal specified on the departmental permit and found by the

Administrator to be adequate to prevent the introduction into the United States of tree, plant, or fruit diseases, injurious insects, and other plant pests, and

(4) Imported with a departmental tag or label securely attached to the outside of the container containing the article or securely attached to the article itself if not in a container, and with such tag or label bearing a departmental permit number corresponding to the number of the departmental permit issued for such article.

[70 FR 8231, Feb. 18, 2005, as amended at 70 FR 71212, Nov. 28, 2005]

**§319.59-3 Articles prohibited importation pending risk evaluation.**

The articles listed in paragraph (a) of this section from the countries and localities listed in paragraph (b) of this section are prohibited from being imported or offered for entry into the United States, except as provided in §319.59-2(b), pending the completion of an evaluation by APHIS of the potential pest risks associated with the articles. The national plant protection organization of any listed country or locality may contact APHIS<sup>1</sup> to initiate the preparation of a risk evaluation. If supported by the results of the risk evaluation, APHIS will take action to remove that country or locality from the list in paragraph (b) of this section.

(a) The following articles of *Triticum* spp. (wheat) or of *Aegilops* spp. (barb goatgrass, goatgrass):

(1) Seeds, plants, and straw (other than straw, with or without heads, which has been processed or manufactured for use indoors, such as for decorative purposes or for use in toys); chaff; and products of the milling process (*i.e.*, bran, shorts, thistle sharps, and pollards) other than flour; and

(2) Seeds of *Melilotus indica* (annual yellow sweetclover) and seeds of any other field crops that have been separated from wheat during the screening process.

(b) Afghanistan, Algeria, Armenia, Australia, Azerbaijan, Bangladesh,

<sup>1</sup>Requests should be submitted in writing to Phytosanitary Issues Management, PPQ, APHIS, 4700 River Road, Unit 140, Riverdale, MD 20737-1236.

Belarus, Bulgaria, Chile, China, Cyprus, Egypt, Estonia, Falkland Islands, Georgia, Greece, Guatemala, Hungary, India, Iran, Iraq, Israel, Italy, Japan, Kazakhstan, Kyrgyzstan, Latvia, Libya, Lithuania, Moldova, Morocco, Nepal, North Korea, Oman, Pakistan, Portugal, Romania, Russia, Spain, Tajikistan, Tanzania, Tunisia, Turkey, Turkmenistan, South Africa, South Korea, Ukraine, Uzbekistan, and Venezuela.

[70 FR 8231, Feb. 18, 2005, as amended at 70 FR 71212, Nov. 28, 2005]

#### § 319.59-4 Karnal bunt.

(a) *Regulated articles.* The following are regulated articles for Karnal bunt:

(1) Conveyances, including trucks, railroad cars, and other containers used to move host crops from a region listed in paragraph (b)(1) of this section that test positive for Karnal bunt through the presence of bunted kernels;

(2) Plant parts, including grain, seed, straw, or hay, of all varieties of wheat (*Triticum aestivum*), durum wheat (*Triticum durum*), and triticale (*Triticum aestivum* × *Secale cereale*) from a region listed in paragraph (b)(1) of this section, except for straw/stalks/seed heads for decorative purposes that have been processed or manufactured prior to movement and are intended for use indoors;

(3) *Tilletia indica* (Mitra) Mundkur;

(4) Mechanized harvesting equipment that has been used in the production of wheat, durum wheat, or triticale that has tested positive for Karnal bunt through the presence of bunted kernels; and

(5) Seed conditioning equipment and storage/handling equipment that has been used in the production of wheat, durum wheat, or triticale seed found to contain the spores of *Tilletia indica*.

(b)(1) Karnal bunt is known to occur in the following regions: Afghanistan, India, Iran, Iraq, Mexico, Nepal, Pakistan, and South Africa.

(2) The Administrator may recognize an area within a region listed in paragraph (b)(1) of this section as an area free of Karnal bunt whenever he or she determines that the area meets the requirements of the International Standard for Phytosanitary Measures (ISPM)

No. 4, "Requirements for the establishment of pest free areas." The international standard was established by the International Plant Protection Convention of the United Nations' Food and Agriculture Organization and is incorporated by reference in § 300.5 of this chapter. APHIS will publish a notice in the FEDERAL REGISTER and maintain on an APHIS Web site a list of the specific areas that are approved as areas in which Karnal bunt is not known to occur in order to provide the public with current, valid information. Areas listed as being free from Karnal bunt are subject to audit by APHIS to verify that they continue to merit such listing.

(c) *Handling, inspection and phytosanitary certificates.* Unless otherwise prohibited under § 319.59-3 of this subpart, any articles described in paragraph (a)(2) of this section that are from a region listed in paragraph (b)(1) of this section may be imported into the United States subject to the following conditions:

(1) The articles must be from an area that has been recognized, in accordance with paragraph (b)(2) of this section, to be an area free of Karnal bunt, or the articles have been tested and found to be free of Karnal bunt;

(2) The articles have not been commingled prior to arrival at a U.S. port of entry with articles from areas where Karnal bunt is known to occur;

(3) The articles offered for entry must be made available to an inspector for examination and remain at the port until released, or authorized further movement pending release, by an inspector; and

(4) The articles must be accompanied by a phytosanitary certificate issued by the national plant protection organization of the region of origin that includes the following additional declaration: "These articles originated in an area where Karnal bunt is not known to occur, as attested to either by survey results or by testing for bunted kernels or spores."

(d) *Treatments.* (1) Prior to entry into the United States, the following articles must be cleaned by removing any soil and plant debris that may be present.

(i) All conveyances and mechanized harvesting equipment used for storing and handling wheat, durum wheat, or triticale that tested positive for Karnal bunt based on bunted kernels.

(ii) All grain storage and handling equipment used to store or handle seed that has tested spore positive or grain that has tested bunted-kernel positive.

(iii) All seed-conditioning equipment used to store or handle seed that has tested spore-positive.

(2) Articles listed in paragraphs (d)(1)(i) and (d)(1)(ii) of this section will require disinfection in addition to cleaning prior to entry into the United States if an inspector or an official of the plant protection organization of the country of origin determines that disinfection is necessary to prevent the spread of Karnal bunt. Disinfection is required for all seed conditioning equipment covered under paragraph (d)(1)(iii) prior to entry into the United States.

(3) Items that require disinfection prior to entry into the United States must be disinfected by one of the methods specified in paragraphs (d)(3)(i) through (d)(3)(iii) of this section, unless a particular treatment is designated by an inspector or by an official of the plant protection organization of the country of origin:

(i) Wetting all surfaces to the point of runoff with a 1.5 percent sodium hypochlorite solution and letting stand for 15 minutes, then thoroughly washing down all surfaces after 15 minutes to minimize corrosion;

(ii) Applying steam to all surfaces until the point of runoff, and so that a temperature of 170 °F is reached at the point of contact; or

(iii) Cleaning with a solution of hot water and detergent, applied under pressure of at least 30 pounds per square inch, at a minimum temperature of 170 °F.

(Approved by the Office of Management and Budget under control number 0579–0240)

## Subpart—Packing Materials

### QUARANTINE

#### § 319.69 Notice of quarantine.

(a) The following plants and plant products, when used as packing mate-

rials, are prohibited entry into the United States from the countries and localities named:

(1) Rice straw, hulls, and chaff; from all countries.

(2) Corn and allied plants (maize, sorghum, broomcorn, Sudan grass, napier grass, jobs-tears, teosinte, Polytoca, Sclerachne, Chionachne); all parts, from all countries except Mexico, and the countries of Central America, the West Indies, and South America.

(3) Cotton and cotton products (lint, waste, seed cotton, cottonseed, and cottonseed hulls); from all countries.

(4) Sugarcane; all parts of the plant including bagasse, from all countries.

(5) Bamboo; leaves and small shoots, from all countries.

(6) Leaves of plants; from all countries.

(7) Forest litter; from all countries.

(8) Soil containing an appreciable admixture of vegetable matter, from all countries, except such types of soil or earth as are authorized as safe for packing by the rules and regulations promulgated supplemental to this quarantine.

Exceptions to the above prohibitions may be authorized in the case of specific materials which have been so prepared, manufactured, or processed that in the judgment of the inspector no pest risk is involved in their entry.

(b) The following plants and plant products when used as packing materials will be permitted entry into the United States from the countries and localities designated below only in accordance with the regulations supplemental to this quarantine:

(1) Cereal straw, hulls, and chaff (such as oats, barley, and rye) from all countries, except rice straw, hulls, and chaff, which are prohibited importation from all countries by paragraph (a)(1) of this section, and except wheat straw, hulls, and chaff, which are restricted importation by § 319.59 of this part from any country or locality listed in § 319.59–2 of this part.

(2) Corn and allied plants (maize, sorghum, broomcorn, Sudan grass, napier grass, jobs-tears, teosinte, Polytoca, Sclerachne, Chionachne); all parts, from Mexico and the countries of Central America, the West Indies, and South America.